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Chairman: Mr. YAMADA (Japan)
(Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International watercourses)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued)

Elaboration of a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of relevant comments and observations of States and views expressed in the debate at the forty-ninth session (continued) (A/51/275 and Corr.1 and Add.1; A/C.6/51/NUW/L.1)

1. Mr. DE VILLENEUVE (Netherlands) said that article 5 should also refer to the principle of sustainable development and the principle of precaution. Further, the scope should be extended to protect ecosystems dependent on the watercourse. His delegation proposed the amendment of the wording of article 5 by the insertion of the following words at the end of paragraph 1: "and of related ecosystems taking into account the principle of sustainable development and the principle of precaution".

2. Mr. CRUZ DE ALMEIDA (Portugal) said that it was important to codify the newest and most recent developments in international law in the area of sustainable development. In any event the concept of equitable and reasonable utilization and participation in itself supposed respect for the principle of sustainable development. The link between articles 5 and 7 was thus dubious, since it was far from certain that "responsibility" carried out to "significant harm", and the link between those two issues did not allow a balance to be found between the rights and concerns of upstream and downstream watercourse States. Further, the wording of article 7 created the impression that utilization which caused significant harm might nonetheless be considered, in certain cases, as equitable and reasonable, a line of reasoning that was unacceptable to his delegation.

3. Mr. de SILVA (Sri Lanka) said that he fully supported the provisions of articles 5 and 7. No attempt should be made to refer in those articles to more general provisions such as the principle of precaution.

4. Mr. MANNER (Finland) said that the objective of sustainable development and the principle of precaution, which were not mentioned in the second part of the draft articles (General principles), other than in article 24, should be included in the general principles governing equitable and reasonable utilization and participation. His delegation thus supported the Netherlands proposal.

5. Mr. WELBERTS (Germany), recalling that article 5 was the keystone of the draft articles, agreed that the principle of sustainable development should be set forth in that article. It was his view that the adjectives "optimal" and "adequate" were disproportionate, and that a more balanced formulation should be found. Further, he supported the Portuguese proposal to replace the words "consistent with adequate protection" by the formulation "conditioned by the protection of the watercourse in respect to the principle of sustainable

development". Lastly, he supported the Netherlands proposal concerning related ecosystems.

6. Mr. PRANDLER (Hungary) said that article 5 should be brought more into line with article 7. The principle set forth in article 5 was very important and should be strengthened. His delegation fully supported the proposals by the Netherlands, Portugal, Finland and Germany. He was also of the view that the principle of sustainable development should be better integrated into the draft articles.

7. Mr. ŠMEJKAL (Czech Republic) agreed that article 5 was the keystone of the future framework convention, and said that it established strict balance between the concept of utilization to attain optimal benefits and the need for adequate protection of the watercourse; it should not be amended.

8. Mr. ISKIT (Turkey) said that the first paragraph of article 5 reconciled the principles of equitable and reasonable utilization and the requirement for protection and utilization for the purposes of sustainable development. Nevertheless, the paragraph as a whole could not obey a single principle. In fact the provision comprised two aspects: firstly, that of optimal, rational use; and, secondly, that of adequate protection. Neither of those elements should be subordinated to the other, since such an approach might undermine the balance of the formulation. Accordingly the wording of the first paragraph should not be amended.

9. The second sentence of article 5, paragraph 2, placed responsibility on watercourse States for cooperating in its protection and development, specifying that the modalities of such cooperation would be stipulated in other articles of the convention. However, for his delegation it would be preferable for those modalities to be determined by specific agreements or arrangements between watercourse States. As a result, the words "as provided in the present articles", at the end of paragraph 2, should be replaced by the following: "The nature and details of such cooperation shall be laid down in watercourse agreements between the concerned States".

10. Mr. PULVENIS (Venezuela) said that while his delegation was satisfied with the wording of article 5, it wished, in common with the Czech delegation, the convention to cover also the principles that had emerged under international environmental law. He supported the proposal submitted by Portugal and the Netherlands, in that the proposal, far from undermining the balance of article 5, contributed to its harmonization and coherence, unlike the proposal submitted by Turkey, which, in his view, would unduly limit the framework of the cooperation provided for in paragraph 2. Accordingly, the wording of article 5, paragraph 2, should be maintained as determined by the Commission. The draft articles should also take account of related ecosystems.

11. Mr. VARSO (Slovakia) supported the retention of the wording of article 5, the key to the framework convention, as adopted by the Commission. The provision had the merit of reconciling two essential demands: on the one hand, the possibility for States to utilize watercourses in their respective territories, and, on the other hand, the duty to cooperate in their protection so as to respect the rights of other States.

12. Mr. CHAR (India) said that the principle of precaution and the issue of related ecosystems were already covered in the fourth part of the draft articles, and that there was no need to refer to them in article 5. He supported the amendments to article 5, paragraph 2, proposed by Turkey.

13. Further, his delegation proposed the addition, at the end of article 6, paragraph 1 (a), of the words "in the territory of each watercourse State", and the insertion of article 5 of the Helsinki Rules in article 6, paragraph 2, of the draft articles.

14. Mr. ROSENSTOCK (Expert Consultant) said that in considering the draft convention article by article it was important to keep in mind that its provisions constituted a whole viewed from different perspectives. Article 5, which attempted to provide a very general summary of the provisions, should be approached from that standpoint.

15. Mr. TANZI (Italy) said that the proposals made by Portugal, the Netherlands and Finland on article 5 would improve the already sound framework proposed by the Commission. Paragraph 2, on the other hand, should remain unchanged.

16. Mr. NEGA (Ethiopia) said that the principle set forth in article 5 already had the status of a customary rule of international law. It was in the light of that principle that the provisions of article 7 and the draft articles as a whole should be viewed. Further, his delegation supported the proposals made by Turkey and India on paragraph 2. The second part of the second sentence of paragraph 2 of article 5 served no purpose, since other, later provisions, particularly article 8, dealt with the same issue.

17. Mr. VORSTER (South Africa) said that article 5 should reflect the new concepts which had emerged in environmental law, and he thus fully supported the proposal made in that regard by the Netherlands; they did nothing to upset the balance of the provision.

18. Mr. NGUYEN DUY CHIEN (Viet Nam) said that article 5 was the keystone of the draft convention and should be strengthened. The proposals made in that regard by Portugal and the Netherlands were interesting and should be carefully considered. On the other hand, he did not support the proposed amendments to paragraph 2.

19. Mr. HAMDAN (Lebanon) supported the statements by the representatives of Viet Nam and Slovakia and by the Expert Consultant. He endorsed the text of article 5 formulated by the Commission and favoured its adoption without amendment.

20. Mr. OBEID (Syrian Arab Republic) supported draft article 5 and agreed with the view expressed by Slovakia, Venezuela and Lebanon that article 5 was well balanced and that there was no need to amend paragraph 2 of the article.

21. Mr. HARRIS (United States of America) said he, too, agreed that articles 5, 6 and 7, which were the fruit of many years' reflection, struck a satisfactory balance. However, with regard to the purely formal aspects of article 5, he noted, first, that the reference in the first sentence of paragraph 1 to

utilization of an international watercourse in an equitable and reasonable manner by watercourse States in their respective territories implied utilization by watercourse States vis-à-vis other watercourse States, and not vis-à-vis individuals in their territory; and secondly, that the right to use a watercourse set forth in paragraph 2 implied a right operating within the limits of the watercourse State's territory.

22. Furthermore, while subscribing to the various principles - including the sustainable development principle, the precautionary principle and the ecosystem protection principle - that various delegations had proposed should be embodied in article 5, his delegation noted that there was no single definition of any of those principles that was acceptable to all States. Since article 5 was the cornerstone of the draft convention, it would be more appropriate to place the general principles in question in the preamble, in part IV or in article 6.

23. Mrs. DASKALOPOULOU-LIVADA (Greece) said that, as the cornerstone of the draft articles, article 5 must set forth the main principles underlying what was intended as a modern legal system to regulate the use of watercourses. She thus supported the proposals submitted by the Netherlands and Portugal with a view to reflecting the development of contemporary international law in article 5.

24. On the other hand, she did not favour amending paragraph 2, and considered that the most appropriate place for references to the various agreements would be in the general articles such as article 3.

25. Mr.BRODARD (Observer for Switzerland), after tracing the genesis of the principles set forth in articles 5, 6 and 7, said that the International Law Commission seemed to have ignored the process whereby they had evolved, inter alia, in assigning greater importance to the prohibition on causing harm (article 7) than to the principle of equitable and reasonable utilization (articles 6 and 7) - thereby rendering that principle largely inoperative, and in seeking to establish a system that favoured existing activities to the detriment of future activities. Water resources were becoming so scarce that any new activity, however slight in scope, might inflict significant harm on present users. As those users could complain under article 7, the existing activities would carry the day, and there would be no new deal in favour of the new user on the basis of the principle of equitable utilization. Furthermore, as the Commission's Special Rapporteurs had emphasized, economic and industrial activities linked to watercourses were generally more highly developed in downstream States than in upstream States. If more importance was assigned to article 7 than to article 5, and if the status quo and existing uses were favoured, downstream States would benefit at the expense of upstream States.

26. That being the case, he proposed that article 7 should simply be deleted. However, the harm caused by new uses should not be disregarded: that factor should figure in article 6. It could, of course, be objected that that solution encouraged the pollution of international watercourses. However, to counter that objection and restore some vitality to the anaemic concept of reasonable utilization, which the draft articles did not define, it would suffice to state in article 6 that a use causing significant harm to the ecosystem of an international watercourse was not reasonable utilization.

27. He therefore proposed, first, that article 6, paragraph 1 (d), should be amended to read "The harm caused by the use of the watercourse in one watercourse State to other watercourse States;"; and secondly, that a new paragraph 1 bis should be inserted in article 6 or article 5, worded thus: "A use which causes significant harm to the ecosystem of an international watercourse is not reasonable utilization." Lastly, article 7 should be deleted.

28. Mr. AL-ADHAMI (Iraq), noting that the Commission's commentary to article 5 stated that attaining an optimal result did not mean achieving the "maximum" use, the most technologically efficient use, or the most monetarily valuable use, expressed the hope that that idea would be spelled out in a separate paragraph of article 5, which he supported. His delegation would submit the text of its proposed new paragraph to the secretariat.

29. Mr. NUSSBAUM (Canada) said he did not think there were any grounds for the fear expressed by some delegations that the proposals submitted by the Netherlands and Portugal would disturb the balance established by article 5. On the contrary, the text of that article should be updated so as to take account of recent developments in international law and of the concepts of sustainable development and precaution embodied, inter alia, in the United Nations Framework Convention on Climate Change, the Agreement on straddling fish stocks and the Rio Declaration on Environment and Development. Without belittling the Commission's work on article 5, his delegation wished to point out that the origins of that provision dated back to the 1970s and 1980s, and even to the 1960s. It therefore supported the proposals made by Portugal and the Netherlands.

30. Mr. LOIBL (Austria) agreed with the representative of Canada that article 5 should reflect recent developments in international law, particularly those that had taken place since 1992. He therefore supported the proposal by the Netherlands and Portugal that a reference to the sustainable development and precautionary principles, and to ecosystems should be inserted in article 5, paragraph 1.

31. His delegation also considered, like the delegation of Germany, that the second sentence of paragraph 1 reflected a delicate balance between optimal utilization of the watercourse and adequate protection thereof, of which account would have to be taken at the drafting stage.

32. Mrs. ESCARAMEIA (Portugal) said she, too, fully supported the Netherlands proposal; inasmuch as the purpose of the debate was to agree on the fundamental aims of the text under review rather than to finalize it down to the smallest detail, either that proposal or the one made by her own delegation seemed acceptable.

33. With regard to the balance of article 5, her delegation, like a number of other delegations, considered that the principle of equitable and reasonable utilization and participation was a vague one. Although it was to be found in a number of other conventions, its practical application remained problematic. The concept of optimal utilization, found in the second sentence of article 5, paragraph 1, disturbed the balance of the paragraph. While such had not been

the Commission's intention, it would be possible to interpret the article as according preference to an economic approach, to the detriment of an ecological approach, thus running counter to many recent declarations and conventions on the question. In order to restore the balance of article 5, mention should therefore be made therein of the sustainable development and precautionary principles.

34. As for the placing of certain principles, article 5 was the cornerstone of the draft convention and it was consequently important that the fundamental principles underlying the convention should appear in that article. Although the principles in question were mentioned elsewhere in the draft articles, she wished them to be incorporated in article 5 and not relegated to a later point in the text. Furthermore, the very title of article 5 made it clear that that provision must lay down the major principles of equitable and reasonable utilization of watercourses.

35. Lastly, she wished to affirm that Portugal had no intention of shirking its obligations, and that on the contrary it had proposed various procedures that placed a considerable burden of responsibility for environmental protection on downstream States.

36. Mrs. VARGAS de LOSADA (Colombia) said that her delegation's position on article 5 had already been set forth in document A/51/275, but that it nevertheless supported the Turkish proposal concerning paragraph 2 of that article.

37. Ms. GAO Yanping (China) said that, like many other speakers, she considered article 5 to be the cornerstone of the draft articles. The existing wording satisfied her delegation for three reasons: it set forth a general principle and gave no precise indications regarding any given use; it established a proper balance between the rights and responsibilities of each watercourse State; and it promoted the use and exploitation of international watercourses.

38. Some delegations' proposals no doubt deserved more detailed consideration. Others concerned questions of detail and thus had no place in article 5. China suggested that the delegations that had drafted the various proposals should hold informal consultations with a view to reaching agreement on a draft text, which they would then submit to the Working Group of the Whole.

39. Mr. THUITA MWANGI (Kenya) said he fully concurred with the text of article 5 as currently drafted, and did not think there was any need to place more emphasis on the obligation to protect the environment, which was already expressly spelled out in the two paragraphs of article 5.

40. Mr. LALLIOT (France) said he doubted whether all States would place the same interpretation on the definition of equitable and reasonable utilization and participation given in article 5. He proposed that the wording should be based on that used in article 2, paragraph 2, of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes.

41. Mr. THAHIM (Pakistan) said that the text of article 5 was complete and acceptable. The expression "in an equitable and reasonable manner", which some

considered too vague, could be made more precise by inserting a reference to article 6. As for article 7, his delegation's observations and proposed amendments thereto were contained in document A/51/275.

42. Mrs. FLORES (Mexico) said that she, too, found the text of article 5 satisfactory. While her delegation endorsed the proposals made by the Netherlands and Portugal, the same could not be said of the proposals made by Turkey and Colombia, which might jeopardize the balance achieved by the Commission.

43. Mr. WELBERTS (Germany) said he endorsed the observations and proposals made by the observer for Switzerland and the representative of Portugal, who saw protection of the environment as a matter that concerned the entire planet. Upstream and downstream States thus had the same obligations in that regard. The future framework convention should lay down the strictest standards: it was precisely because article 5 was a key provision that references to sustainable development and protection of the environment should be inserted therein. On the other hand, paragraph 2, which described the elements of equitable participation, should not be amended.

44. Mr. AL-HAYEN (Kuwait) said he favoured retaining paragraph 2 of article 5, the wording of which was satisfactory and should not be altered.

45. Mr. ISKIT (Turkey) said that, unlike the delegation of Portugal, he thought that article 5, paragraph 1, favoured ecological issues at the expense of economic issues, as adequate protection of the watercourse was the criterion that determined the optimal character of the utilization and benefits. He requested the Expert Consultant's opinion on the matter. He emphasized that his proposal had been, not simply to delete paragraph 2, but to amend the close of that paragraph by referring to watercourse agreements concluded by the riparian States. Far from seeking to change the balance of the article, his proposal was aimed at preserving the nature of the framework convention, which must set forth the main principles without going into details.

46. Mr. ROSENSTOCK (Expert Consultant) drew attention to paragraphs (3) and (4) of the Commission's commentary to article 5, which explained the expression "in an equitable and reasonable manner".

47. Mr. MORSHED (Bangladesh) said he endorsed the view expressed by the representative of Hungary that any utilization that caused harm could not be equitable or reasonable. Amending the article in the way proposed by Turkey might introduce an imbalance; furthermore, the duty to cooperate was a principle of general international law and not a question of detail to be left to the discretion of the parties to a given watercourse agreement.

48. Mrs. ESCARAMEIA (Portugal), endorsing the explanations given by the Expert Consultant, said that it was precisely because of the importance attached by the Commission to ecological considerations and sustainable development that she proposed that those issues should be mentioned in the text and not merely in the commentary.

49. Mr. CALERO RODRIGUES (Brazil) said that he could not support the Turkish proposal. If reference was made to watercourse agreements, it might be supposed that only States that had concluded an agreement were obliged to cooperate. That, however, was not the case; it was precisely the general nature of the obligation that made it possible to preserve the balance between the right of utilization and the duty to cooperate.

50. Mrs. FERNÁNDEZ de GURMENDI (Argentina) endorsed the Portuguese proposal aimed at strengthening the obligatory character of article 5, paragraph 1. Similarly, she proposed that a more binding formulation should be used in article 6, paragraph 1, and that in paragraph 2 of that article the expression "when the need arises", which might give rise to controversy, should be deleted.

51. Mr. MANONGI (United Republic of Tanzania) said that the existing wording of article 5 was balanced and appropriate. However, if delegations felt sufficiently strongly, it might be possible to add more details in article 6, but not in article 5, which must remain general in scope.

52. Mr. CHAR (India) said that the balance achieved by the Commission in article 5 was entirely satisfactory; it would therefore be better not to amend the text. The principles of protection of the environment and sustainable development were certainly very important, but they had no place in that article. If it was absolutely essential to incorporate them in the future convention, it would be better to insert them in article 6 or in part IV of the draft articles.

53. Mr. MANNER (Finland) proposed that a general statement should be inserted in the chapeau of article 6 to the effect that the relative value to be accorded to the various factors must be determined with a view to attaining sustainable development of the watercourse as a whole, and having special regard to the requirements of vial human needs, and particularly of the dependency of the population on the watercourse. It should also be spelled out that account must be taken of the needs and interests of future generations when making any cost-effect calculation.

54. Mr. ISKIT (Turkey) said that article 6, which gave substance to the principle of equitable and reasonable utilization, was acceptable. However, as touched upon in his country's observations concerning the second sentence of article 5, paragraph 1, the word "optimal" should be inserted in the chapeau of article 6. Also, for precision's sake, the word "pedological", covering the structure and quality of soil, should be added to paragraph 1 (a), and the contribution of water by riparian States to the watercourse should be specifically mentioned in an additional paragraph along the lines of article V, paragraph 2 (b), of the Helsinki Rules.

55. Mr. VORSTER (South Africa), while endorsing the Finnish proposal, proposed that article 6, paragraph 1 (c), should be amended by adding to it the following phrase: "with particular emphasis on the requirements of such populations for basic domestic needs", for specific mention must be made of that particular basic human need. It would also be valuable to specify in paragraph 1 (e) that the possibility expressed by the adjective "potential", far from referring to a

remote hypothesis, referred to uses that were virtually certain to become a reality.

56. Mrs. ESCARAMEIA (Portugal), referring to the observations made by her delegation in document A/51/275 concerning article 6, said that it was important to refer to the principle of sustainable development in the chapeau of that article, a solution which would also contribute to the hierarchical ranking of factors sought by the delegation of Finland.

57. Mrs. FERNÁNDEZ de GURMENDI (Argentina) said that while endorsing the Finnish proposal to refer in article 6, paragraph 2, to the concept of "vital human needs" contained in article 10, paragraph 2, she nevertheless considered that that concept was too vague and would also run counter to the principle whereby there was no hierarchical relationship among the factors listed. She thus proposed that in article 10, paragraph 2, and, consequentially, in the chapeau of article 10, that concept should be replaced by the more everyday concept of "domestic needs". She also proposed that the concept of a dependent population should be spelled out in article 6, paragraph 1 (c), by means of a reference to that population's supply needs. The obligation set forth in the chapeau to take account of all relevant factors and circumstances should also be made stricter, and the phrase "when the need arises" should be deleted from article 6, paragraph 2.

58. Mr. PRANDLER (Hungary), said that while accepting the current wording of article 6, he broadly concurred with the Finnish proposal to embody the principle of sustainable development in the chapeau of that article. With regard to the formulation of the proposal as a whole, it seemed to matter little whether the expression "vital human needs" proposed by Finland or the expression "domestic needs" preferred by Argentina was the one adopted.

59. Mr. ROSENSTOCK (Expert Consultant), referring to the various proposals made by delegations concerning article 6, said that unlike article 5, which was intended to be prescriptive, article 6 proposed guidelines regarding the factors to be taken into account with a view to using watercourses in an equitable and reasonable manner. The terms "requires" or "shall" were simply drafting options, and could be amended. On the other hand, the expression "when the need arises" was of value in that it showed that there was no need to enter into consultations in every circumstance, as there were cases when that would be unnecessary.

60. Moreover, it must not be forgotten that the Commission had deliberately avoided establishing a hierarchy among the factors, in view of the great diversity of watercourses throughout the world. Those factors varied in importance from one watercourse to another. With regard to the expression "vital human needs", it was no doubt worth recalling that paragraph (4) of the commentary to article 10 obliged watercourse States to pay special attention to providing sufficient water to sustain human life, including both drinking water and water required for the production of food in order to prevent starvation. That formulation, which provided a plausible interpretation of the concept of vital human needs, should make it possible to rectify the lack of precision for which the concept had been criticized; in any case the concept of "basic domestic needs" was equally imprecise.

61. Mr. ŠMEJKAL (Czech Republic) said that, while satisfied with the wording of article 6 as a whole, he agreed with the Expert Consultant that it would not be proper to establish a hierarchy among the factors to be taken into account, as those factors were likely to vary from time to time and from place to place. However, he proposed amending paragraph 1 (d) so as to retain, in addition to the effects of the uses, the advantages they procured. Furthermore, he suggested amending paragraph 1 (g) so as to take account also of the cost of the alternatives, using the expression "of corresponding value and costs", for in its commentary to that article the Commission had referred to the cost-effectiveness of uses. It had thus clearly intended to cover the notion of cost in article 6.

62. Mr. SABEL (Israel), said that, while appreciating the Expert Consultant's explanation concerning the absence of a hierarchy among the various relevant factors, he thought that there was one factor, namely, adequate supply of drinking water, that was of greater importance, and should be mentioned in article 6. The various proposals on the matter could no doubt be combined, for example, by inserting in paragraph 1 (b) the words: "in particular, the vital human needs for an adequate supply of domestic water".

63. Mrs. VARGAS de LOSADA (Colombia), referring to her country's written observations contained in document A/51/275, said that the proposal to give priority to vital human needs, in particular provision of drinking water, was consistent with her delegation's proposal concerning article 10; the latter article was the most appropriate place for such a formulation.

64. Mr. DE VILLENEUVE (Netherlands) said he supported the Finnish proposal as amended by the delegations of Argentina and Israel, as well as the proposal by Portugal and Finland to embody the principle of sustainable development in article 6. However, the adoption of such a course should not rule out the possibility of embodying that principle in article 5, which was in fact where it clearly belonged. Lastly, he agreed with the Czech delegation that account should be taken of the costs of all other potential uses.

65. Mr. NEGA (Ethiopia) said he concurred with the Finnish proposal to embody the concepts of sustainable development and vital human needs in the chapeau of article 6. Like the delegation of Israel, he also thought it was necessary to make the latter concept more explicit by referring to the need for food security or self-sufficiency in food, which also constituted a vital human need. He also endorsed the Turkish proposal to include among the relevant factors the contribution of water by each State to the watercourse.

66. Mr. WELBERTS (Germany) said that, while endorsing the Finnish proposal concerning article 6 as amended by the delegations of Israel and Argentina, which supplemented the Netherlands proposal concerning article 5, he nevertheless considered that the latter article was the most appropriate place to set forth new principles. Furthermore, he saw no point in the Indian proposal to insert the words "in the territory of each watercourse State", given that conventions of the type under consideration were supposed to settle questions whose implications went beyond State borders.

67. Mr. CRUZ DE ALMEIDA (Portugal) said that the solution proposed by the delegation of Israel to the problem posed by the expression "vital human needs" was preferable to the Finnish proposal, which might disturb the balance established by article 6. As for the proposal to refer to the contribution of water by States to the watercourse, to do so would call into question the historical rights of riparian States and might thus lead to serious problems.

68. Mr. VARSO (Slovakia) said he agreed with the Expert Consultant that there was no case for amending the substance of article 6, even though the proposal by the Czech Republic merited study. In any case, economic considerations should not be favoured at the expense of ecological factors, vice versa, so as not to disrupt the balance of the article.

69. Mr. RAO (India), replying to the delegation of Germany, said that his proposal was based on the Helsinki Rules, the authors of which had deemed it proper to specify in article V that it covered the territories of the watercourse States by using the expressions "of each basin State" or "in each basin State", inter alia, in paragraph 2, subparagraphs (b), (e), (f) and (g), of that article. He also considered it necessary to make the concept of vital human needs more precise by referring to the supply of drinking water and of food. Lastly, it seemed to him that account should be taken of the costs of uses, as proposed by the Czech delegation.

70. Mr. HARRIS (United States of America) said that the text of article 6 should be amended as little as possible. If the idea was to establish in that article an indicative list of contingent factors, nothing was to be gained by adding other factors, least of all in the chapeau of the article, for fear of sacrificing the clarity of the provision.

71. Mrs. MEKHEMAR (Egypt) agreed with the United States delegation that there was no call to add other factors to article 6 and that favouring some States at the expense of others must be avoided at all costs.

72. Mr. NGUYEN DUY CHIEN (Viet Nam) said he shared the view of the delegation of Portugal that the contribution of water by riparian States to the watercourse should not be included in article 6.

73. Mr. OBEID (Syrian Arab Republic) reaffirmed the importance of the concept of vital human needs and agreed that other factors should not be added to article 6, which was very well balanced.

74. Mr. THAHIM (Pakistan) said that the integrity of article 6 must be preserved has the article was global in scope.

75. Mr. RAO (India) said he agreed with the United States representative that prudence dictated not altering the text of article 6, which listed general factors, thereby introducing some flexibility in the choice of factors to be taken into account when appropriate. In any case, a factor such as the contribution of water was, and always would be, present in such a case. In short, there was no point in assigning a particular weight to any one factor.

76. Mr. ISKIT (Turkey) endorsed the United States suggestion that the chapeau of article 6 should be amended as little as possible. The proposal concerning the contribution of water by riparian States seemed to him to bear no relation to alleged historical rights over watercourses, a concept which in his view had no basis in international law, as the representative of India had pointed out.

The meeting rose at 6.10 p.m.